

PROJECT STABILIZATION AGREEMENT FOR THE CITY OF MILPITAS LIBRARY PROJECT

INTRODUCTION/FINDINGS

The purpose of this Agreement is to promote efficiency of construction operations during the **City of Milpitas Library Project** and provide for peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the Project.

WHEREAS, the successful completion of the Project is of the utmost importance to the City of Milpitas; and

WHEREAS, the complexity, time sensitivity of completion and coordination of this Project with other redevelopment construction in the immediate vicinity of this Project require the consideration and utilization of a Project Stabilization Agreement to achieve the objectives of the City of Milpitas/Milpitas Redevelopment Agency; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work, including those to be represented by the unions affiliated with the Santa Clara & San Benito Counties Building and Construction Trades Council and any other labor organization which is signatory to this Agreement employed by contractors and subcontractors who are signatory to agreements with said labor organizations; and

WHEREAS, it is recognized that on a Project of this magnitude with multiple contractors and bargaining units on the job site at the same time over an extended period of time, the potential for work disruption is substantial without an overriding commitment to maintain continuity of work; and

WHEREAS, the interests of the general public, the City of Milpitas and the Unions and Contractor/Employers would be best served if the construction work proceeded in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Contractor/Employers and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the Project by the Contractor/Employer(s) and the Union(s) to the end that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement; and

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WHEREAS, this Agreement is not intended to replace, interfere, abrogate, diminish or modify existing local or national collective bargaining agreements in effect during the duration of the Project, insofar as a legally binding agreement exists between the Contractor/Employer(s) and the affected Union(s) except to the extent that the provisions of this Agreement are inconsistent with said collective bargaining agreements, in which event, the provisions of this Agreement shall prevail; and

WHEREAS, the contracts for the construction of the Project will be awarded in accordance with the applicable provisions of the California State Public Contract Code; and

WHEREAS, the City of Milpitas has the absolute right to select the lowest reliable and responsible bidder for the award of construction contracts; and

WHEREAS, the parties signatory to this Agreement pledge their full good faith and trust to work towards mutually satisfactory completion of the Project;

NOW, THEREFORE, IT IS AGREED BETWEEN AND AMONG THE PARTIES HERETO, AS FOLLOWS:

ARTICLE I **DEFINITIONS**

1.1 “Agreement” means this Project Stabilization Agreement

1.2 “City” means the City of Milpitas/Milpitas Redevelopment Agency and the administrative staff.

1.3 “County” means Santa Clara County.

1.4 “Contractor/Employer(s)” means any individual, firm, partnership, corporation or joint venture, or combination thereof, including truckers and trucking brokers providing construction materials (asphalt, aggregate, concrete, etc.) for immediate incorporation into the building construction process, which is an independent business enterprise and has entered into a contract with the City or any of its contractors or subcontractors at any tier, with respect to the construction of any part of the Project under contract terms and conditions approved by the City and which incorporate the Agreement.

1.5 “Construction Contract” means the public works or improvement contracts which have been signed by the City and which are necessary to complete the Project.

1.6 “Project” means the individual construction contracts collectively that are designated to be covered by this Agreement described more specifically in Section 2.2 and Exhibit 1.

1.7 “Union” or “Unions” means the Santa Clara & San Benito Counties Building and

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Construction Trades Council, AFL-CIO (“Council”) and any other labor organization signatory to this Agreement, acting in their own behalf and on behalf of their respective affiliates and member organization whose names are subscribed hereto and who have through their officers executed this Agreement (“Signatory Unions”).

1.8 “Master Agreement” or “Schedule A” means the Master Collective Bargaining Agreement of each craft union signatory hereto.

ARTICLE II

SCOPE OF AGREEMENT

2.1 **Parties:** The Agreement shall apply and is limited to all Contractors/Employers performing construction contracts on the Project by those Contractors of whatever tier that are awarded contracts for such work, the City and the Santa Clara & San Benito Counties Building and Construction Trades Council, AFL-CIO (“Council”) and any other labor organization signatory to this Agreement, acting in their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement (“Signatory Unions”).

2.2 **Project Description:** This Agreement shall govern the award of all construction contracts identified by the City as part of the Project. Exhibit 1, attached to this Agreement and incorporated herein by reference, is a description of the Project to be covered by this Agreement. Project construction includes on-site demolition, preparation including surveying, new construction, alteration and repair of buildings, structures and other works related to the Project which includes modular furniture installation, and on-site testing and inspection where such work is covered by a Master Agreement of a signatory Union. The City has the absolute right to combine, consolidate, add, or cancel contract(s) or portion of contract(s) identified as part of the Project. Should the City remove any contract listed in Exhibit 1 from the Project and thereafter authorize that construction work be commenced on the Project, the contract shall be performed under the terms of this Agreement. Once a construction contract is completed, it is no longer covered by this Agreement. For the purposes of this Agreement, a construction contract under this Project shall be considered completed upon filing of a Notice of Completion.

2.3 **Project Labor Disputes:** All labor disputes involving the application or interpretation of the Master Collective Bargaining Agreement to which a signatory Contractor/Employer and a signatory Union are parties shall be resolved pursuant to the resolution procedures of that collective bargaining agreement. All disputes relating to the interpretation or application of this Project Stabilization Agreement shall be subject to resolution by the Grievance Committee and the grievance arbitration procedure set forth in Article XII herein.

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2.4 **Elevator Constructors:** Work covered by the Project Stabilization Agreement with the craft jurisdiction of the Elevator Constructors will be performed under the terms of the National Agreement of the International Union of Elevator Constructors except that Articles IV, XII, and XIII of the Project Stabilization Agreement shall prevail and be applied to such work.

2.5 **Exclusions:**

(1) This Agreement shall be limited to construction work on the Project within the construction contract(s) listed in Exhibit 1 and for which there is a prevailing wage determination. This Agreement shall not include the following specialty work unless covered by a prevailing wage determination:

- A. Security Systems (access control, book theft, security and fire alarms);
- B. Furnishings (bookcases, display cases, carrels, moveable units, book drop conveyor systems, signage/graphics);
- C. Low voltage wiring (computer/telecom cable);
- D. Audio-visual systems, projectors;
- E. City/County furnished items (appliances, lockers);
- F. Artwork lighting and installation; and
- G. Maintenance of leased equipment and related on-site supervision.

(2) Any work performed by employees of the City, County or State of California.

(3) Any proprietary work performed by utility company(ies) or their contractors not under the control of the City/City of Milpitas Redevelopment Agency or its contractors.

(4) This Agreement is not intended to, and shall not govern any construction work performed at the City not listed on Exhibit 1 at any time prior to the effective date, or after the expiration or termination of this Agreement.

(5) This Agreement is not intended to, and shall not affect or govern the award of public works contracts by the City which are outside the approved scope of the Project.

(6) This Agreement is not intended to, and shall not affect the operation or maintenance of the City.

(7) This Agreement shall not apply to a Contractor/Employer's executives, managerial employees, staff engineering employees, supervisors above the level of General Foremen (except those covered by existing building and construction trades collective bargaining agreements), office and clerical employees.

ARTICLE III

EFFECT OF AGREEMENT & SUBCONTRACTING

3.1 By executing the Agreement, the Unions and the City agree to be bound by each and all of the provisions of the Agreement.

3.2 By accepting the award of a construction contract for the Project, whether as contractor or subcontractor, the Contractor/Employer agrees to be bound by each and every provision of the Agreement and agrees that it will evidence its acceptance prior to the commencement of work by executing the Letter of Assent in the form attached hereto as Addendum A.

3.3 Each signatory Contractor/Employer agrees that it will subcontract covered work only to a person, firm, or corporation who is or becomes party to this Agreement and who is or agrees to become bound for purposes of performing covered work, and who performs covered work, pursuant to a local multi-employer collective bargaining agreement (Master Agreement) with the craft Union having traditional and customary jurisdiction over the work. At the time that any Contractor/Employer enters into a subcontract with any subcontractor providing for the performance of a construction contract, the Contractor/Employer shall provide a copy of this Agreement to said subcontractor and shall require the subcontractor as a part of accepting an award of a construction subcontract to agree in writing to be bound by each and every provision of this Agreement prior to the commencement of work. The obligations of a Contractor/Employer cannot be evaded by subcontracting, and the higher tier Contractor/Employer shall remain liable for the failure of a subcontractor to pay the appropriate wages and benefits to the extent required by the provisions of the California Labor Code.

3.4 The furnishing of supplies, equipment or materials which are stockpiled for later use shall in no case be considered subcontracting; however the delivery of ready-mix, asphalt, aggregate, sand or other fill material which are directly incorporated into the construction process as well as the off-hauling of debris and excess fill and/or mud shall be covered by the terms and conditions of this Agreement

3.5 This Agreement shall only be binding on the signatory parties hereto and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party. It is understood that the liability of any Contractor and the liability of the separate Unions under this Project Stabilization Agreement shall be several and not joint.

ARTICLE IV

NO STRIKES – NO LOCK-OUTS

4.1 The Unions, City and Contractor/Employers agree that for the duration of the Project:

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(1) There shall be no strikes, sympathy strikes, work stoppages, picketing, handbilling or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or employees employed on the Project, at the job site of the Project or at any other facility of the City because of a dispute on the Project. It shall not be considered a violation of this Article if labor is withheld by a Union due to a Contractor/Employer's failure to make Trust Fund contributions or failure to meet payroll on this Project, provided all of the following conditions are met: (1) The affected Union has given the delinquent Contractor/Employer and City written notice of the Contractor/Employer's failure to make Trust Fund contributions and/or payroll; (2) Seventy-two (72) hours have elapsed since the written notice. During this seventy-two (72) hours, at its discretion, the City may review the delinquency and take steps to enforce payment by the Contractor/Employer if it has confirmed that a delinquency in pay and/or fringe benefit contributions exists; (3) After the seventy-two (72) hours period, the Contractor/Employer remains delinquent in the payment of wages and/or fringe benefit contributions; and (4) The affected Union has given the delinquent Contractor/Employer and the City, upon expiration of the seventy-two (72) hour period, another written notice that since the delinquency remains, upon the expiration of one (1) full work day on the Project following this final notice, the workers will be withheld from the Project if the delinquency remains. Disputes arising between the Unions and Contractor/Employers on other City projects are not governed by the terms of the Agreement.

(2) As to employees employed on the Project, there shall be no lockout of any kind by a Contractor/Employer covered by the Agreement.

(3) If a Master Agreement between a Contractor/Employer and the Union expires before the Contractor/Employer completes the performance of a construction contract and the Union or Contractor/Employer gives notice of demands for a new or modified Master Agreement, the Union agrees that it will not strike the Contractor/Employer on said contract for work covered under this Agreement and the Union and the Contractor/Employer agree that the expired collective bargaining agreement shall continue in full force and effect for work covered under this Agreement until a new or modified Master Agreement is reached between the Union and Contractor/Employer or Employer Association. If the new or modified Master Agreement reached between the Union and Contractor/Employer or Employer Association provides that any terms of compensation of the Master Agreement shall be retroactive, the Contractor/Employer agrees to pay to its employees who performed work covered by this Agreement at the Project during the period between the effective dates of such labor agreements, an amount equal to any such retroactive wage and benefit increases established by such new Master Agreement, retroactive to whatever dates are provided by the new local, regional or other applicable agreement for such increases to go into effect, for each employee's hours worked on the Project during the retroactivity period.

(4) The parties to this Agreement agree that the labor organizations have not waived their legal rights to undertake otherwise lawful activity with regard to any dispute or disputes which they may have regarding construction work unrelated to the Project and

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operations; provided, however, that any such activities by the signatory Unions shall not disrupt or interfere in any way with the ongoing Project work covered by this Agreement.

Expedited Arbitration Procedure

4.2 Any party to this Agreement may institute the following procedure, prior to any other action at law or equity, when a breach of this Article is alleged to have occurred: A party invoking this procedure shall notify Gerald McKay, as the permanent arbitrator or, if he is unavailable, Thomas Angelo, as the alternate permanent arbitrator by the most expeditious means available, with notices by facsimile or telephone to the party alleged to be in violation and to the Santa Clara & San Benito Counties Building and Construction Trades Council and the involved Local Union if a Union is alleged to be in violation.

Upon receipt of said notice, the City will contact the designated arbitrator named above or his alternate who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

The arbitrator shall notify the parties by facsimile or telephone of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.

The sole issue at the hearing shall be whether or not a violation of Article IV, Section 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with or enforcement of the award. The arbitrator may order cessation of the violation of this Article and other appropriate relief and such award shall be served on all parties by hand or registered mail upon issuance.

Such award may be enforced by any Court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's award as issued under this Article, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order or enforcement. The Court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

4.3 Any rights created by statute or law governing arbitration proceedings

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inconsistent with the above procedure or which interfere with compliance are waived by the parties.

4.4 The fees and expenses of the arbitrator shall be divided equally between the parties.

ARTICLE V

PRE-CONSTRUCTION CONFERENCE/LABOR-MANAGEMENT MEETINGS

5.1 A pre-construction conference shall be held prior to the commencement of the Project. Such conference shall be attended by a representative each from the participating Contractor/Employers and Union(s) and the City.

5.2 The parties to this Project Labor Agreement recognize the necessity for cooperation and communication between Labor and Management, and for the elimination of disputes and misunderstandings between the parties. To this end, representatives of the Contractors will meet monthly with the representatives of the signatory Building Trades Unions to promote harmonious and stable labor/management relations on this Project, and to insure effective and constructive communications between the labor and management parties. The date and time of these meetings will be determined by the parties and will be open to all representatives of Contractors and Unions signatory to this Project Labor Agreement. The meetings will be held at the offices of the Santa Clara & San Benito Building & Construction Trades Council, AFL-CIO unless the parties decide on an alternative location.

5.3 Before any contractor actually commences work on the Project, and just prior to the start of the work, the contractor will meet personally with the Unions to discuss all matters of mutual concern on the Project. This pre-job conference will be arranged by the Santa Clara & San Benito Building & Construction Trades Council and held at the Council offices, unless the parties mutually agree on another location.

ARTICLE VI

NO DISCRIMINATION

6.1 The Contractor/Employers and Unions agree not to engage in any form of discrimination because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability or any other basis prohibited by law against any employee, or applicant for employment, on the Project.

ARTICLE VII

UNION SECURITY

7.1 The Contractor/Employers recognize the Union(s) as the sole bargaining representative of all craft employees working within the scope of this Agreement.

7.2 All employees who are employed by Contractor/Employers to work on a Project will be required to become members and maintain membership in the appropriate Union on or before the eighth (8th) day of consecutive or cumulative employment on a construction contract subject to this Agreement. Membership under this section shall be satisfied by the tendering of periodic dues and fees uniformly required to the extent allowed by the law.

7.3 Authorized representatives of the Unions shall have reasonable access to the Project whenever work covered by this Agreement is being, has been, or will be performed on the Project.

ARTICLE VIII

REFERRAL

8.1 Contractor/Employers performing construction work on the Project described in the Agreement shall in filling craft job requirements be bound by and utilize the registration facilities and referral systems established or authorized by the signatory Unions. The Contractor/Employer(s) shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement.

8.2 The Contractor(s) shall have the unqualified right to select and hire directly all supervisors above General Foremen it considers necessary and desirable, without such persons being referred by the Union(s).

8.3 In the event that referral facilities maintained by the Unions are unable to fill the requisition of a Contractor/Employer for employees within a forty-eight (48) hour period (Saturday, Sundays and Holidays excluded) after such requisition is made by the Contractor/Employer, the Contractor/Employer shall be free to obtain work persons from any source.

8.4 Unions will exert their utmost efforts to recruit sufficient numbers of skilled craft persons to fulfill the requirements of the Contractor/Employers. The parties to this Agreement support the development of increased numbers of skilled construction workers from the residents of the City of Milpitas and Santa Clara County to meet the needs of the Project and the requirements of the industry generally. Toward that end, the Unions agree to encourage the referral and utilization, to the extent permitted by law and the hiring hall procedures, of qualified City of Milpitas and Santa Clara County residents as journeymen and apprentices on this Project and entrance into such apprenticeship and training programs as may be operated by the signatory Unions.

ARTICLE IX

WAGES, HOURS, AND BENEFITS

9.1 **Trust Fund Contributions:** All Contractor/Employers agree to pay contributions to the established vacation, pension and other form of deferred compensation plan, apprenticeship, and health benefit funds for each hour worked on the project in the amounts designated in the Master Agreements of the appropriate local unions. The Contractor/Employers shall not be required to pay contributions to any other trust funds that are not contained in the published prevailing wage determination to satisfy their obligation under this Article except those Contractor/Employers who are signatory to the Master Agreements with the respective trades shall continue to pay all trust fund contributions as outlined in such Master Agreements.

9.2 **Trust Agreements:** By signing this Agreement, the Contractor/Employers adopt and agree to be bound by the written terms of the legally established Trust Agreements, as described in 9.1, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds.

9.3 **Wages, Hours, Terms and Conditions of Employment:** The wages, hours, overtime, holidays and other terms and conditions of employment on the Project shall be governed by the Master Agreement of the respective crafts, copies of which shall be on file with the City, to the extent such Master Agreement is not inconsistent with this Agreement. Where a subject is covered by the Master Agreement and not covered by this Agreement, the Master Agreement will prevail. Where a subject is covered by both the Master Agreement and this Agreement, to the extent there is any inconsistency, this Agreement will prevail.

ARTICLE X

EMPLOYEE GRIEVANCE PROCEDURE

10.1 All Contractor/Employer(s), including any Contractor/Employer which is not otherwise bound through an agreement with a labor organization to a grievance procedure which has jurisdiction to consider and resolve disputes over the imposition of discipline or dismissal of its employees working on this Project, shall be bound to the grievance procedure contained in the Master Agreement of the craft representing the employee(s) involved in the dispute. For purposes of this Article, such grievance procedure shall be limited to disputes regarding the imposition of discipline or dismissal arising from work covered by this Agreement. Such Contractor/Employer shall not impose discipline or dismissal on its employees covered by this Agreement without just cause.

ARTICLE XI

COMPLIANCE

11.1 It shall be the responsibility of the Contractor/Employers and Unions to investigate and monitor compliance with the provisions of the Agreement contained in Article IX. Nothing in this agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit Trust Funds to collect delinquent Trust Fund contributions from Employers on the Project. The City shall monitor and enforce compliance with the prevailing wage requirements of the State and Contractor/Employers' compliance with this Project Stabilization Agreement.

ARTICLE XII

GRIEVANCE AND ARBITRATION PROCEDURE

12.1 The parties understand and agree that in the event any dispute arises out of the meaning, interpretation or application of the provisions of this Agreement, the same shall be settled by means of the procedures set out herein. No grievance shall be recognized unless the grieving party (Local Union or District Council on its own behalf, or on behalf of an employee whom it represents, or a contractor on its own behalf) provides notice in writing to the signatory party with whom it has a dispute within five (5) days after becoming aware of the dispute but in no event more than twenty-one (21) days after it reasonably should have become aware of the event giving rise to the dispute. The time limits in Section 12.1 may be extended by mutual written agreement of the parties.

12.2 Grievances shall be settled according to the following procedure:

Step 1: Within five (5) business days after the receipt of the written notice of the grievance, the Business Representative of the involved Local Union or District Council, or his/her designee, or the representative of the employee, and the representative of the involved Contractor/Employer shall confer and attempt to resolve the grievance.

Step 2: In the event that the representatives are unable to resolve the dispute within the five (5) business days after its referral to Step 1, either involved party may submit it within three (3) business days to the Grievance Committee, which shall meet within five (5) business days after such referral (or such longer time as is mutually agreed upon by all representatives on the Grievance Committee), to confer in an attempt to resolve the grievance. The Grievance Committee shall be comprised of one (1) representative of the City; one (1) representative of the Contractor/Employer; and two (2) representatives of the Santa Clara & San Benito Counties Building & Construction Trades Council. If the dispute is not resolved within such time (five (5) business days after its referral or such longer time as mutually agreed upon) it may be referred within five (5) business days by either party to Step 3:

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Step 3: Within five (5) business days after referral of a dispute to Step 3, the representatives shall choose a mutually agreed upon arbitrator for final and binding arbitration. The parties agree that if the permanent arbitrator or his alternate is not available, an arbitrator shall be selected by the alternate striking method from the list of five (5) below:

1. Gerald McKay
2. Thomas Angelo
3. William Riker
4. Barry Winograd
5. Mathew Goldberg

The decision of the Arbitrator shall be binding on all parties. The Arbitrator shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expense of the Arbitrator shall be borne equally by both parties.

The Arbitrator shall arrange for a hearing on the earliest available date from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding Arbitrator.

The time limits specified in any step of the Grievance Procedure set forth in Section 12.2 may be extended by mutual agreement of the parties initiated by the written request of one party to the other, at the appropriate step of the Grievance Procedure. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without an agreed upon extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes.

In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of this Grievance Procedure, the parties agree that such settlements shall not be precedent setting.

ARTICLE XIII

JURISDICTIONAL DISPUTES

13.1 The assignment of work will be solely the responsibility of the Employer performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan or, where a local or regional written agreement exists as to jurisdictional assignments, pursuant to such local or regional agreement.

13.2 There will be no strikes, no work stoppages, no picketing, sympathy strikes, slow

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downs or other interferences with the work because of jurisdictional disputes between signatory Unions.

13.3 In the event of a jurisdictional dispute between any signatory Unions, it is agreed that the following procedures shall be taken in an attempt to resolve the matter:

Step 1: The appropriate Union Representatives of the involved crafts shall meet with the affected Contractor/Employer in an attempt to resolve the dispute within twenty-four (24) hours.

Step 2: If no settlement is reached, the appropriate International Union Representatives from each affected craft shall meet with the affected Contractor/Employer within five (5) calendar days.

Step 3: If no settlement is reached within five (5) calendar days, such dispute shall be referred to and settled by the procedure established by the Building and Construction Trades Department of the AFL-CIO. Alternatively, where one party objects to this procedure, the dispute may be settled by use of any other local, regional or state plan or method of procedure to resolve jurisdictional disputes that may exist or be adopted in the future, if and only if all parties to the dispute are bound to or agree to be bound to that other plan or method, otherwise the dispute will be settled by whatever procedure has been established by the Building and Construction Trades Department of the AFL-CIO to resolve such disputes. In any event, the parties hereto agree that there will be no slowdown or stoppage of work, no picketing or other interferences pending final resolution of the dispute and the work shall continue during this period as originally assigned by the Contractor/Employer.

If any Union or Contractor/Employer fails to immediately and fully comply with a final decision rendered in any jurisdictional dispute, the Contractor/Employer or the Union shall have the immediate right to seek full legal redress for such conduct including, but not limited to, injunctive relief and/or damages.

The time limits in this section may be extended by mutual written agreement of the affected Contractor/Employer and the affected crafts.

ARTICLE XIV

APPRENTICES

14.1 Recognizing the need to maintain continuing support of programs designed to develop adequate numbers of competent workers in the construction industry, the Contractor/Employer(s) shall employ apprentices of a bona fide State approved Apprenticeship Program in the respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured. A bona fide State approved Apprenticeship Program is an Apprenticeship

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Program approved by the State of California, Division of Apprenticeship Standards and which has actually graduated apprentices annually in each of the preceding five (5) years preceding the award of the contract for work on the Project.

14.2 The apprentice ratios will be in compliance with the applicable provisions of the California Labor Code and Prevailing Wage Rate Determination.

14.3 There shall be no restrictions on the utilization of apprentices in performing the work of their craft provided they are properly supervised.

ARTICLE XV

MANAGEMENT RIGHTS

15.1 The Contractor/Employer(s) shall retain full and exclusive authority for the management of their operations, including the right to direct their work force in their sole discretion. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees except that the lawful manning and fabrication provisions in a Master Agreement shall be recognized and applied on the Project(s).

ARTICLE XVI

BUILDING CONSTRUCTION EDUCATION PROGRAM

16.1 The Parties agree to mutually support and participate in a Building Construction Education Program ("Education Program"). This Education Program will consist of a multiple day event during the construction of the Project with the purpose of educating the students and residents of the City in the various activities required to construct the Project. Craft workers will be compensated for the time necessary to sufficiently clean the work site to accommodate the Education Program event. Those involved craft workers in the skill demonstrations event will participate on a voluntary basis.

ARTICLE XVII

SAVINGS CLAUSE

17.1 The parties agree that in the event any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. The parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void, by a court of competent jurisdiction, the parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause, sentence or work which will meet the objections to its validity and which will be in accordance with the intent and purpose of

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the article, provision, clause, sentence or work in question.

17.2 The parties also agree that in the event that a decision of a court of competent jurisdiction materially alters the terms of the Agreement such that the intent of the parties is defeated, then the entire Agreement shall be null and void.

17.3 If a court of competent jurisdiction determines the all or part of the Agreement is invalid and/or enjoins the City from complying with all or part of its provisions and the City accordingly determines that the Agreement will not be required as part of an award to a Contractor/Employer, the Unions will no longer be bound by the provisions of Article IV.

ARTICLE XVIII

TERM

18.1 The Agreement shall be included as a condition of the award of construction contracts identified by the City as part of the Project in Exhibit 1.

18.2 The Agreement shall continue in full force and effect until the completion of the Project.

City of Milpitas

By:_____ DATE:_____

Title: _____

[NAME OF PROJECT MANAGER]

By:_____ DATE:_____

Title

Santa Clara & San Benito Counties Building & Construction
Trades Council AFL-CIO (Council)

By:_____ DATE:_____
Business Manager

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SIGNATURE BLOCKS FOR UNIONS

**CITY OF MILPITAS
PROJECT STABILIZATION AGREEMENT
EXHIBIT 1**

Description
<p>New Milpitas Public Library Project, Project Number: <u>8162</u></p> <p>The proposed 60,000 square foot New Milpitas Public Library to be located at 150 North Main Street consists of new one and two story construction that will flank the existing single story historic Milpitas Grammar School building. The existing approximately 15,000 square foot single-story Type V-N building will be restored and adaptively reused as an integral part of the library. The new additions consist of steel framed structure with structural concrete mat foundation and include a raised floor system with an under floor HVAC system. The 2-hour separations will be built under this contract after the Library mat slab west of the Garage is constructed.</p>

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Addendum A: Agreed To Letter of Assent

[Date]

[Addressee]

[Address]

[City and State]

Re; (NAME OF PROJECT) ,
Project Stabilization Agreement -- Letter of Assent

The undersigned party confirms that it agrees to be a party to and bound by the
(NAME OF PROJECT), Project Stabilization Agreement as such Agreement may, from time to
time, be
amended by the
parties or interpreted pursuant to its terms.

By executing this Letter of Assent, the undersigned party subscribes to, adopts and agrees to be
bound by the written terms of the legally established trust agreements specifying the detailed
basis upon which contributions are to be made into, and benefits made out of, such trust funds
and ratifies and accepts the trustees appointed by the parties to such trust funds.

Such obligation to be a party to and bound by this Agreement shall extend to all work covered by
said Agreement undertaken by the undersigned party on the (NAME OF PROJECT). The
undersigned party shall require all of its subcontractors, of whatever tier, to become similarly
bound for all their work within the scope of this Agreement by signing an identical Letter of
Assent.

This letter shall constitute a subscription agreement, to the extent of the terms of the letter.

CONTRACTOR/SUBCONTRACTOR: _____

California State License Number: _____

Name and Signature of Authorized Person: _____
(Print Name)

(Title)

(Signature)

(Telephone Number)

(Facsimile Number)

Draft

SIDE LETTER

City of Milpitas Library Project

The parties to the Project Stabilization Agreement for the City of Milpitas Library Project recognize and understand:

1. That a principal purpose of the Project Stabilization Agreement is to maximize the potential for stable, harmonious working conditions on the City of Milpitas Library Project and completion of the work without disruption or delay resulting from labor disputes;
2. That there will be other construction work and ongoing operations on and adjacent to the Library property during the course of the Construction Program which construction work and ongoing operations will not be part of the Library Project and therefore not subject to the terms of the Project Stabilization Agreement; and,
3. That the labor organizations signatory to the Project Stabilization Agreement have not waived their legal “rights” to undertake otherwise lawful activity with regard to any dispute or disputes which they may have regarding non-City of Milpitas Library Project construction work and operations.

Recognizing the above circumstances and in order to carry out the principles of the Project Stabilization Agreement, the parties to that Agreement agree:

1. Should a signatory union have a dispute with regarding to non-covered work on or adjacent to the City of Milpitas Library Project, the Council shall meet with the representatives of the City of Milpitas (and its construction Manager) to discuss and review the appropriate, valid, legal manner and means by which the signatory union may undertake its activities with regard to this dispute (giving due consideration in such discussions and review to the traditional concerns for the ongoing operations of the Library, and to the importance of the continuity of the work covered by the Project Stabilization Agreement), and develop a program which allows the signatory union to exercise its legal rights, but at the same time minimizes (and, if possible, eliminates) any potential that such activity may adversely impact or have any disruptive effect on the ongoing Library construction work; and
2. In developing such a program the representatives of the Library and the Council will make every good faith effort to
 - (a) recognize and permit the involved signatory union(s) to undertake their activities in the broadest manner possible consistent with law and past practice on and around the City of Milpitas Library property, and
 - (b) avoid having such activities have any disruptive impact or affect on the City of Milpitas Library Project; and, finally,

3. Should either the Council or the Library (or its Construction Manager/Project Contractors) become aware of a possible or actual labor dispute involving non-City of Milpitas Library work or operations and involving non-signatory unions which may result in public activity on or about the Library property by such non-signatory unions, the representative of each will jointly meet to discuss such activity and to work together, using their best efforts to avoid having such activity adversely impact or otherwise delay or interfere with ongoing City of Milpitas Library construction contracts.

**Santa Clara and San Benito Building
& Construction Trades Council**

By: _____
Neil Struthers

Date: _____

City of Milpitas

By: _____

Date: _____